

Chapter 169 of the Acts of 2004

AN ACT RELATIVE TO THE FINANCIAL STABILITY IN THE CITY OF SPRINGFIELD.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The general court finds that:-

- (1) The city of Springfield has a projected structural deficit for fiscal year 2005.
- (2) Without significant changes the city is likely to project a structural deficit in fiscal year 2006.
- (3) As a result of such structural deficits, the city is unable to enact a balanced budget and is in fiscal crisis.
- (4) The fiscal crisis poses an imminent danger to the safety of citizens of the city and their property.
- (5) Without an approved balanced budget, the city will be unable to collect property taxes during part or all of fiscal year 2005.
- (6) The city may be unable to obtain reasonable access to credit markets.
- (7) The city's credit has been downgraded to a sub-investment grade credit rating.
- (8) The city has received fiscal 2004 local aid from the commonwealth in excess of \$260,000,000, representing over 60 per cent of its operating budget, a proportion in keeping with that of recent years.
- (9) Special acts approved in 1989, 1991 and 1996 have not been successful in achieving fiscal stability for the city.
- (10) In order to assure a comprehensive long-term solution to the city's financial problems, it is necessary to enact extraordinary remedies, including a finance control board and, if necessary, a receiver, with the powers necessary to achieve the intent of this act.
- (11) The governor has recommended to the general court pursuant to section 8 of Article LXXXIX of the Amendments to the Constitution that legislation be enacted to resolve the financial emergency in the city and to restore financial stability to the city.

The Governor's veto was overridden by the Legislature.

SECTION 2. Notwithstanding any general or special law to the contrary, there is hereby established and set up on the books of the commonwealth the Springfield Fiscal Recovery Trust Fund, in this act called the fund, the sole purpose of which shall be to provide interest free loans to the city of Springfield. Effective June 30, 2004, the comptroller shall transfer to the fund \$52,000,000 from the General Fund to the fund. The fund shall be established as a separate trust fund, subject to the control of the secretary for administration and finance, who shall serve as the trustee and who may approve without further appropriation interest-free loans from the fund to the city of Springfield. The loan shall be disbursed to the city from time to time in such amounts and upon terms and conditions determined by the finance

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control board and approved by the secretary for administration and finance. These terms and conditions may provide that payment of money on account of tax receivables be paid over to the commonwealth to reduce any loan balance. The city shall repay the loan on a schedule proposed by the finance control board and approved by the secretary for administration and finance. Any such repayment schedule proposed by the finance control board and approved by the secretary for administration and finance shall begin in fiscal year 2008. The city shall repay the entire balance of amounts loaned pursuant to this section no later than June 30, 2012. This loan shall not be forgiven in whole or in part, and failure to repay the full value of loans disbursed from the fund to the city shall result in an equally commensurate reduction in local aid payments made by the commonwealth to the city in fiscal year 2013. The repayments shall be deposited in the commonwealth's General Fund. Loan amounts from the fund may be expended for the 3-year operating expenses of the Springfield finance control board established in section 4, subject to the approval of the secretary for administration and finance. The secretary shall report quarterly to the house and senate committees on ways and means on expenditures made from the fund, including the amounts and purposes of expenditures for personnel costs, contracted personnel costs or consultant fees. Notwithstanding any general or special law to the contrary, any indebtedness incurred under this act shall not be included in determining the statutory limit of indebtedness of the city under [section 10 of chapter 44](#) of the General Laws, but except as provided in this act, shall otherwise be subject to the provisions of said chapter 44. Any amounts loaned to the city from funds made available in this section shall be repaid to the commonwealth regardless of any actions taken by any trustees appointed on behalf of the city pursuant to chapter 9 of Title 11 of the United States Code. The secretary shall report quarterly to the house and senate committees on ways and means on the amounts and purposes of expenditures made from the fund. The fund shall expire on June 30, 2007.

SECTION 3. Notwithstanding [section 2 of chapter 44A](#) of the General Laws, the city of Springfield may apply for the designation of revenue anticipation notes authorized under [section 4 of chapter 44](#) of the General Laws as qualified debt, and may be authorized to issue such notes as qualified debt for so long as the board established by section 4 continues in existence, or for the period of any receivership under section 5.

SECTION 4. (a) There shall be in the city of Springfield a finance control board, in this act called the board, which shall consist of 5 members: 3 designees of the secretary of administration and finance, the mayor of the city of Springfield, and the president of the city council of the city of Springfield. The board shall act by a majority vote of all its members. The secretary for administration and finance, in this act called the secretary, may fix stipends to be paid to members of the board other than the mayor and president of the city council of Springfield, which stipends shall be paid from directly from the trust established in section 2. The board shall initiate and assure the implementation of appropriate measures to secure the financial stability of the city, and shall continue in existence until June 30, 2007, and thereafter for such period as the members may vote to continue its existence, provided however that the secretary of administration and finance may at any time abolish the board. The board shall be a state agency for the purpose of [chapter 268A](#) of the General Laws.

(b) Action by the board under the authority of this act shall in all respects constitute action by the city for all purposes under the General Laws and under any special law.

(c) Until the board ceases to exist, no appropriation, borrowing authorization, transfer, including transfer from or replenishment of funds into the supplemental reserve fund under section 7 of chapter 656 of the acts of 1989, or other municipal spending authority shall take effect until approved by the board. The

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board shall approve all appropriations, borrowing authorizations, transfers, or any other municipal spending authorizations, in whole or part.

(d) In addition to the authority and powers conferred elsewhere in this act, and notwithstanding any city charter provision, or local ordinance to the contrary, the board shall have the following powers:

(1) to amend the annual or supplemental budgets of the city and the school committee, including the establishment, increase or decrease of any appropriations and spending authority for all departments, boards, committees, agencies or other units of the city and the school committee, but, notwithstanding [section 34 of chapter 71](#) of the General Laws, this paragraph shall fully apply to the school department and all school spending purposes;

(2) to implement and maintain uniform budget guidelines and procedures for all departments;

(3) to amend, formulate and execute capital budgets, including to amend any borrowing authorization, or finance or refinance any debt in accordance with law;

(4) to amortize operational deficits in an amount and for such term as the secretary approves on an annual basis;

(5) to develop and maintain a uniform system for all financial planning and operations in all departments, offices, boards, commissions, committees, agencies or other units of the city's government, including the school department;

(6) to review and approve or disapprove all proposed contracts for goods or services;

(7) notwithstanding any general or special law to the contrary, to establish, increase, or decrease any fee, rate, or charge, for any service, license, permit or other municipal activity, otherwise within the authority of the city;

(8) notwithstanding the charter or any city ordinance to the contrary, to appoint, remove, supervise and control all city employees and have control over all personnel matters; the board shall hold all existing powers to hire and fire and set the terms and conditions of employment held by other employees or officers of the city, whether or not elected; the board shall have the authority to exercise all powers otherwise available to a municipality regarding contractual obligations during a fiscal emergency; and no city employee or officer shall hire, fire, transfer or alter the compensation or benefits of any employee except with the written approval of the board. The board may delegate or otherwise assign these powers with the approval of the secretary;

(9) to alter the compensation of elected officials of the city to reflect the fiscal emergency and changes in the responsibilities of the officials as provided by this act;

(10) to employ, retain, and supervise such managerial, professional and clerical staff as are necessary to carry out its responsibilities, with the approval of the secretary. The board, with the approval of the secretary, shall have authority to set the compensation, terms, and conditions of employment of its own staff. The compensation of personnel hired pursuant to this subsection shall be determined and fixed by the board and paid directly from the trust established in section 2. Staff hired under this subsection shall be deemed employees of the commonwealth, except such employees as the board formally designates

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independent contractors, but chapters 31 and 150E of the General Laws shall not apply to such employees.

(11) to reorganize, consolidate or abolish departments, commissions, boards, offices or functions of the city, in whole or in part, and to establish such new departments, commissions, boards, offices or functions as it deems necessary, and to transfer the duties, powers, functions and appropriations of 1 department, commission, board or other unit to another;

(12) to appoint in consultation with the secretary persons to fill vacancies on any board, committee, department, or office acting in an advisory capacity to the board;

(13) to sell, lease, or otherwise transfer real property and other assets of the city with the approval of the secretary;

(14) to purchase, lease, or otherwise acquire property or other assets on behalf of the city with the approval of the secretary;

(15) to promulgate rules and regulations governing the operation and administration of the city;

(16) to seek voter approval of such general override, debt exclusion or capital expenditure exclusion ballot questions as are provided for in [section 21C of chapter 59](#) of the General Laws;

(17) to approve the allocation of the tax levy through the selection of a residential factor pursuant to [section 56 of chapter 40](#) of the General Laws but no choice of a residential factor under said section 56 shall be valid until it has been approved by the board;

(18) to alter or rescind any action or decision of any municipal officer, employee, board or commission within 14 days after receipt of notice of such action or decision;

(19) to suspend in consultation with the secretary such rules and regulations of the city and to promulgate rules and regulations necessary to carry out this act; and

(20) to exercise all powers under the General Laws and this or any other special act, any charter provision or ordinance that any elected official of the city may exercise, acting separately or jointly. With respect to any such exercise of powers by the board, the elected officials of the city shall not rescind or take any action contrary to such action by the board so long as the board continues to exist.

SECTION 4A. Within 30 days after the appointment of the board, but no later than September 1, 2004, the board shall make a preliminary report to the secretary of administration and finance and to the chairpersons of the house and senate committees on ways and means. The report shall present a preliminary analysis of the fiscal crisis in Springfield and the board's preliminary finance and management plans to address the city's operating and structural deficits. The board shall examine the feasibility and advisability of measures to mitigate or relieve the burden of school transportation costs.

SECTION 5. (a) If the board established by section 4 concludes that its powers are insufficient to restore fiscal stability to the city of Springfield, it shall so notify the secretary for administration and finance, and shall forward to him a statement of the reasons why it has been unable to restore fiscal stability to the city. Upon receipt of such statement, the secretary for administration and finance may

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terminate the existence of the board, notwithstanding section 4, and may appoint a receiver for the city for a period as he may determine. The secretary may at any time and without cause remove the receiver and appoint a successor, or terminate the receivership. The secretary shall determine the salary of the receiver, which salary shall be payable by the city.

(b) The receiver shall have the following powers:-

(1) all powers of the finance control board under section 4. Such powers shall continue in the receiver and shall remain through the period of any receivership;

(2) the power to exercise any function or power of any municipal officer or employee, whether elected or otherwise, specifically including the following powers relative to building and zoning:

(A) to order the laying out, locating anew or discontinuing of streets and ways within the city;

(B) to regulate the construction of buildings;

(C) to implement such changes to the city's zoning ordinance as are necessary; provided, however, that the zoning ordinance continues to promote public safety, health, and welfare; and provided further, that no zoning change shall affect or interfere with the integrity of existing residential districts. No such proposed zoning changes shall apply to structures or uses lawfully existing or lawfully begun before the effective date of the zoning change;

(i) The procedure for implementing changes in zoning ordinances as provided in [section 5 of chapter 40A](#) of the General Laws shall not govern such changes in the city during the time the receiver is in operation.

(ii) The receiver shall not implement any zoning change until a public hearing has been held at which interested persons shall have an opportunity to be heard. The public hearing shall be held within 60 days after the date on which the board originally proposed the zoning change. Notice of the time and place of the public hearing, of the subject matter sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the city once in each of 2 successive weeks; but the first publication shall be not less than 14 days before the day of the hearing; and notice shall also be posted in a conspicuous place in city hall for a period of not less than 14 days before the day of the hearing.

(iii) Notice of such proposed zoning change shall be sent to any nonresident property owner who files an annual request for such notice with the city clerk no later than January 1 of each year. The receiver shall establish a reasonable fee to cover the cost of providing these notices; and

(3) the power to file a petition in the name of the city under Chapter 9 of Title 11 of the United States Code, and to act on the city's behalf in any such proceeding.

(c) Upon the appointment of a receiver, the office of mayor shall be abolished, and the receiver shall exercise all the powers of the mayor under the General Laws, special laws, the city charter and ordinances. Other elected officials of the city shall continue to be elected in accordance with the city charter, and shall serve solely in an advisory capacity to the receiver.

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SECTION 6. (a) Notwithstanding [chapter 60](#) of the General Laws, the board or the receiver may invoke this section by a written statement filed with the treasurer and the city council, which statement shall also be given by publication as defined in section 1 of said chapter 60 and recorded in the registry of deeds.

(b) If the board or the receiver invokes the provisions of this section, the rights of redemption from tax title of all parcels of real estate for which the tax title is held by the city of Springfield shall be foreclosed by operation of law without the necessity of sale pursuant to [section 79 of chapter 60](#) of the General Laws or of filing a petition to foreclose under section 65 of said chapter 60, at the expiration of 1 year from the effective date of publication of the statement required by the first paragraph of this section or 1 year from the date of the tax taking, whichever is later; if the city has given notice by certified or registered mail to any person who has filed a statement with the city under section 39 of said chapter 60, and to assessed owners, and has given notice by publication, as defined in section 1 of said chapter 60, at least 3 months before the expiration of the 1-year redemption period, which notice shall list each parcel by address and by the name of the assessed owner at the time of the tax taking or sale, and the assessed owner for the most recent annual assessment, if different. This section shall apply to tax titles created by instruments recorded before the effective date of this act and to those recorded during the existence of the board or receiver. Such provisions shall have no effect on any legal proceeding commenced before July 1, 2005 in the courts of the commonwealth in which a party has appeared asserting a cause of action and claiming a right to redeem. This section shall not apply to tax titles that are the subject of a payment agreement under an ordinance enacted pursuant to section 10, but if this section is invoked the city shall record at the registry of deeds a list of all parcels subject to such agreements. The finance control board or the receiver shall have the power to disclaim title to any property acquired by foreclosure under this section, if it is of the opinion that the title so acquired is of doubtful validity.

SECTION 7. The city of Springfield may, with prior approval of the board, by ordinance authorize payment agreements between the treasurer and persons entitled to redeem parcels in tax title. Such agreements shall be for a maximum term of no more than 3 years, or such lesser period as the ordinance may specify, and may waive up to 30 per cent of the interest that has accrued on the amount of the tax title account, subject to such lower limit as the ordinance may specify. An ordinance under this section shall provide for such agreements and waivers uniformly for classes of tax titles defined in the ordinance. Any such agreement must require a minimum payment at the inception of the agreement of 40 per cent of the amount needed to redeem the parcel. During the term of the agreement the treasurer may not bring an action to foreclose the tax title unless payments are not made in accordance with the schedule set out in the agreement, or timely payments are not made on other amounts due to the municipality that constitute a lien on the same parcel.

SECTION 8. In addition to the supplemental reserve fund under section 7 of chapter 656 of the acts of 1989, there shall be in the city of Springfield a capital reserve fund into which the city shall appropriate in each fiscal year at least 1.5 per cent of the amount of property taxes committed for the preceding fiscal year. The fund may be appropriated only for purposes for which the city could borrow for 10 years or longer under [chapter 44](#) of the General Laws.

SECTION 9. (a) The board shall submit reports to the house and senate committees on ways and means not later than October 1, January 1, April 1, and July 1 of each year, which shall provide a detailed accounting of all loan funds expended pursuant to section 2. The accounting shall itemize by recipient the amount of any stipends paid pursuant to section 4.

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(b) The board shall submit a report to the house and senate committees on ways and means not later than 5 days before the award of any no-bid contract to any private person or entity. This report shall disclose: (1) the terms of the anticipated contract, including but not limited to all monetary compensation; (2) the identity of the contractor and any subcontractor or affiliate of such contractor that would benefit under the contract; (3) a specific finding by the board that not using a competitive bidding process under the circumstances is necessary to ensure the provision of essential services to the city; and (4) a certification by the board that it engaged in arms-length negotiations with the contractor and that the terms of the contract represent the best possible arrangement for the city under the circumstances.

(c) The finance control board shall submit a report to the house and senate committees on ways and means not later than 5 days before the award of any contract if, at any time within 3 years before the effective date of this act, any member of the finance control board or any employee or officer of the executive office of administration and finance served as an employee, member or general or limited partner of the contractor, its owners or affiliates. The report shall also disclose whether, at any time within 3 years before the effective date of this act, any member of the finance control board or any employee or officer of the executive office of administration and finance was required to file a statement pursuant to the Securities Exchange Act of 1934 as beneficial owner of more than 10 per cent of a class of the contractor's equity securities. This report shall disclose the terms of the anticipated contract, including but not limited to all monetary compensation, and the identity of the contractor and any subcontractor or affiliate of such contractor that would benefit under the contract.

SECTION 10. This act shall be effective notwithstanding any charter provision or ordinance to the contrary.

SECTION 11. This act shall take effect upon its passage.

Approved (in part) July 9, 2004.